




# UNITED STATES PATENT AND TRADEMARK OFFICE

  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,260	01/07/2002	Peter Nash	C150.12.3C	8343

7590 04/07/2006

Richard John Bartz  
Southdale Office Centre, Suite 350  
6750 France Avenue South  
Edina, MN 55435

EXAMINER
----------

HUYNH, PHUONG N

ART UNIT	PAPER NUMBER
----------	--------------

1644

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

60/038,260

EXAMINER
----------

Huynh, PN

ART UNIT	PAPER
----------	-------

1644

03212006

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The Reply Brief filed 3/7/06 has been entered and considered.

Appellants argue that the Supplemental Examiner's Answer dated April 29, 2005 contains new ground of rejection by adding the publication Yokoyama et al (Infection and Immunity 60(3): 998-1007, March 1992) and is probited as this appeal was not remanded to the Examiner under 37 CFR 1.193(b)(1).

As stated in the Supplemental Examiner Answer (mailed 5/6/2005), the examiner's answer was simply in response to appellants' reply brief filed 2/17/05 and to correct the listing of prior art, of record, noted at the time.

Other than correcting the listing of prior art of record and the reducing the number of issues on appeal, the Supplemental Examiner's answer remains the same as the Examiner's Answer mailed 12/17/04.


The allegation of the added new publication Yokoama et al (Infection and Immunity 60(3): 998-1007, March 1992) in the Supplemental Examiner's Answer can be found at page 7 in the Final Office Action mailed 2/13/04. Therefore, there is no new ground of rejection.

The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The IFW official Fax number is (703) 872-9306.

Any information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuong N. Huynh, Ph.D.  
Patent Examiner  
Technology Center 1600

  
CHRISTINA CHAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600